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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,141	12/12/2000	James J. Fitzgibbon	70333	5535

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FITCH EVEN TABIN AND FLANNERY  
120 SOUTH LA SALLE STREET  
SUITE 1600  
CHICAGO, IL 60603-3406

EXAMINER

LINNENKAMP, NICHOLAS L

ART UNIT	PAPER NUMBER
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2635

DATE MAILED: 05/10/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/735,141

**Applicant(s)**

FITZGIBBON ET AL.

**Examiner**

Nicholas L Linnenkamp

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., transmission from sensor to the processor is wireless) are not recited in the rejected claims 1-4, and 6-9. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant's arguments filed February 26, 2004 have been fully considered but they are not persuasive.

Applicant states (page 5, lines 16-30) a two-part system in which the sensor is located outside the secure area.

Andreou teaches of securing an area and allowing access via a fingerprint sensor (512) thus the sensor must be disposed outside the secured area (Col 19, lines 18-34). The sensor is the first part of the securing system.

Andreou teaches that the electronics module (500) for controlling access is located on the interior side of the door thus residing inside the secure area (See figure 2 for position, Col 7, lines 21-31 for description). The electronics module is the second part of the securing system, thus a two-part system is satisfied.

Andreou teaches that optical pattern recognition (fingerprint identification) is *performed* in the EDL and replacement of the handheld controller HHC with a

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photodiode array (Col 19, lines 18-34). The transmitter located with the HHC/Sensor is external to the secured area and the receiver located with the EDL for fingerprint identification is internal to the secured area (See Figure 1 for position of the HHC which is held in the hand, likewise fingerprint sensor would have to be external to the door to allow access).

Applicant also argues on page 5, lines 31-33 that Andreou is wired not wireless. It is examiners position such arguments are not persuasive. The only indication of wireless components is in claim 5, which claims RF signals and RF transmitters.

In regards to claim 5, Fishbine shows us as previously stated that it is possible to use of RF signals to transmit the captured fingerprints by a hand held unit to a central location (Col 2 lines 13-17).

The examiner maintains that the following Claims 1,2, and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Andreou et al.

In reference to Claim 1, Andreou et al. teaches of a movable barrier such as the door with remote-activated lock attached. Andreou et al. teaches of a fingerprint sensor for performing identity authentication (Col 19, lines 42-44). Andreou et al. teaches an Electronic Door Lock (EDL) to assume one of two states, locked or unlocked, which was viewed as a barrier operator circuit for commanding a barrier to assume a particular position (Col 15, lines 5-10). Andreou et al. teaches the connection of a photodiode array for fingerprint pattern recognition (Col 19, lines 28-38). Andreou et al. teaches of

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using a direct connection as a transmission medium between MPU (505) and Scanner (512) (Figure 7), thus inherently including some type of transmitting and receiving structure. Andreou et al. teaches of Micro Processing Unit (MPU) for authenticating an incoming signal (Col 15, lines 19-25).

In reference to Claim 2, Andreou et al. teaches that fingerprint sensor is an optical fingerprint sensor (Col 19, lines 40-45).

In reference to Claim 6, Andreou et al. teaches of an EDL, which was viewed as a transmitter that comprises a wall control.

In reference to Claim 7, Andreou et al. teaches of memory for use in the MPU (Col 15, lines 19-25).

In reference to Claim 8, Andreou et al. teaches of using coded signals that must be verified before lock operation (Col 5, 52-58). Andreou et al. teaches that the MPU sends a signal to the Parallel Input Output (PIO) unit for causing barrier to assume different positions (Col 17, lines 1-4).

In reference to Claim 9, Andreou et al. teaches of using optical pattern recognition in the EDL thus performing positive identification of fingerprints (Col 19, lines 44-45).

Thus Andreou et al. teaches all the claim limitations of claims 1,2,and 6-9.

The examiner maintains that claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andreou et al. in view of Nicholls. Andreou et al. teaches all the limitations of claims 1 and 2. Andreou et al. does not teach the use of

electroluminescent fingerprint sensors. Nicholls teaches of an electroluminescent fingerprint sensor such as TactileSense™ by Who?Vison™ as an improvement over other common fingerprint sensors. It would have been obvious to one skilled in the art at the time of invention to substitute Andreou et al.'s optical fingerprint sensor for Nicholls electroluminescent fingerprint sensor since Nicholls discloses an advantage of electroluminescent fingerprint sensors over existing fingerprint sensors, such as the immunity to the 'dry finger problem' that existed in fingerprint sensing technologies at the time of invention (Nicholls, pp 5). Who?Vison™ also suggests the integration of such sensors into physical access control devices ("[xlvision.com/spinoffs](http://xlvision.com/spinoffs)").

The examiner maintains that claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andreou et al. in view of Toyoda et al. Andreou et al. teaches all the limitations of claim 1 and 2. Andreou et al. does not teach the use of Charged Coupled Devices (CCDs). Toyoda et al. teaches the use of CCDs to sense fingerprints in the production of identity authentication devices (Fig. 1). It would have been obvious to one skilled in the art at the time of invention to substitute Andreou et al.'s optical fingerprint sensor for Toyoda et al's identity authentication device using a CCD since Toyoda et al suggest that his device be used to manage entrance and exit of individuals in restricted areas (Col 1, lines 38-40) and the use of Toyoda et al's identification device using CCD would provide an improved individual identification apparatus with a high recognition ability (Col 2, lines 38-42).

The examiner maintains that claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andreou et al. in view of Fishbine et al. Andreou et al. teaches all the limitations of claim 1 but does not teach of using RF signals to transmit the representative fingerprint. Fishbine et al. teaches the use of RF signals to transmit the captured fingerprints by a hand held unit to a central location (Col 2 lines 13-17). It would have been obvious by one skilled in the art at the time of invention to use the handheld fingerprint-sensing RF transmitter of Fishbine et al. in the device of Andreou et al. because Fishbine et al. suggests that such a system would be useful to field-capture a fingerprint and make an identity match (Col 2, lines 10-13) and Andreou et al. suggest that the HHC could be replaced with positive identification of fingerprints (Col 19, lines 42-44).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fick discloses a system for controlling access to a barrier in which the biometric sensor is located on the wireless transmitter for allowing access to the vehicles electronics, including door operation, upon successful verification of biometric information, preferably a fingerprint. Please see Figures 5 and 6 for general operation of the vehicles electronics.

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Nagao et al. discloses in a background section that prior art door opening mechanism described in JP-A-11-93478 published on April 6, 1999 and substantially shown as Figure 8, includes a wireless transmitter for transmitting data representative of a fingerprint to a control device for releasing the vehicle door lock.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within



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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas L Linnenkamp whose telephone number is (703) 305-8701. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas L Linnenkamp

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Examiner  
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NLL

MICHAEL HORABIK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

A handwritten signature in black ink, appearing to read "Michael Horabik", written over the printed name and title.